

**MINUTES  
FREMONT CITY COUNCIL MEETING  
JUNE 14, 2011  
FREMONT CITY HALL  
7:00 P.M.**

**1. PRELIMINARY**

**1.1 Call to Order:** Mayor Wasserman called the meeting to order.

**1.2 Flag Salute:** Councilmember Dutra led the salute to the flag.

**1.3 Roll Call:** Present: Mayor Wasserman, Vice Mayor Chan, Councilmembers: Natarajan, Harrison and Dutra.

**1.4 Announcements by Mayor/City Manager**

**2. CONSENT CALENDAR**

- \* **2.1 Waive Reading of Ordinances:** The City Attorney read the titles of ordinances to be considered.

On a motion by Councilmember Natarajan, seconded by Vice Mayor Chan, the City Council waived further readings of proposed ordinances.

Ayes:	Mayor Wasserman, Vice Mayor Chan, Councilmembers: Natarajan, Harrison and Dutra
Noes:	None
Absent:	None
Abstain:	None

- \* **2.2 Approval of Minutes –**

On a motion by Councilmember Natarajan, seconded by Vice Mayor Chan, the City Council approved the minutes for the Regular Meetings of January 4, 2011, May 3, 2011, and the Special and Regular Meetings of June 7, 2011

Ayes:	Mayor Wasserman, Vice Mayor Chan, Councilmembers: Natarajan, Harrison and Dutra
Noes:	None
Absent:	None
Abstain:	None

- \* **2.3 Mayor Wasserman opened consideration to Authorize the City Manager or Designee to Execute a Contract Amendment with Management Partners Related to Personnel Services in the Additional Amount of up to \$40,000 for a Total of \$136,000**

\*Consent Items

On a motion by Councilmember Natarajan, seconded by Vice Mayor Chan, the City Council authorized the City Manager or designee to execute a Contract Amendment with Management Partners for up to an additional amount of \$40,000, for a total of \$136,000.

Ayes: Mayor Wasserman, Vice Mayor Chan,  
Councilmembers: Natarajan, Harrison and Dutra  
Noes: None  
Absent: None  
Abstain: None

**\* 2.4 Mayor Wasserman opened consideration of Authorization to Issue a Purchase Order to Bauer Compressors, Inc., for the Purchase of Two Air Compressors to Replace Outdated and Failing Equipment Currently in Use by the Fire Department**

On a motion by Councilmember Natarajan, seconded by Vice Mayor Chan, the City Council authorized the City Manager or designee to issue a purchase order to Bauer Compressors, Inc., in the amount of \$113,989 for the purchase of air compressors by using the County of Los Angeles Contract No. MA-IS-1040425-2.

Ayes: Mayor Wasserman, Vice Mayor Chan,  
Councilmembers: Natarajan, Harrison and Dutra  
Noes: None  
Absent: None  
Abstain: None

**\* 2.5 Mayor Wasserman opened consideration to Authorize the City Manager or Designee to Amend the Streetlight and Exterior Facilities Light Maintenance Contract with Republic ITS (Seimens) for Additional Work in the Amount of \$200,000, for a New Not-to-Exceed Amount of \$836,495**

On a motion by Councilmember Natarajan, seconded by Vice Mayor Chan, the City Council authorized the City Manager or his designee to execute a contract amendment in the amount of \$200,000 for additional Streetlight and Exterior Public Facilities Lighting services for a new not-to-exceed amount of \$836,495 for the 2010/11 fiscal year.

Ayes: Mayor Wasserman, Vice Mayor Chan,  
Councilmembers: Natarajan, Harrison and Dutra  
Noes: None  
Absent: None  
Abstain: None

**\* 2.6 Mayor Wasserman opened consideration to Authorize the City Manager to Negotiate a Short-term Agreement to Continue the Provision of First Responder Advanced Life Support Services**

On a motion by Councilmember Natarajan, seconded by Vice Mayor Chan, the City Council authorized the City Manager or his designee to negotiate an interim solution and to execute an agreement implementing the solution regarding the continued provision of First Responder Advanced Life Support services by the City of Fremont for the County of Alameda.

Ayes: Mayor Wasserman, Vice Mayor Chan,  
Councilmembers: Natarajan, Harrison and Dutra  
Noes: None  
Absent: None  
Abstain: None

**\* 2.7 Mayor Wasserman opened consideration of a Public Hearing (Published and Posted Notice) To Conduct A Public Hearing on the Levy of Annual Assessments for Landscaping Assessment District 88 and Adopt a Resolution Confirming Diagrams and Assessments for District 88 for Fiscal Year 2011/12**

On a motion by Councilmember Natarajan, seconded by Vice Mayor Chan, the City Council:

1. Opened public hearing for Levy of Annual Assessment for Existing Zones in District 88.
2. Considered all oral statements and written protests.
3. Closed public hearing.
4. Levied the proposed assessment by adopting Resolution No. 2011-34 confirming Diagrams and Assessments for Fiscal Year 2011/12 for Fremont Landscaping Assessment District 88 Zones 1-17, 19-21 and 23-47 (Exhibit B).

Ayes: Mayor Wasserman, Vice Mayor Chan,  
Councilmembers: Natarajan, Harrison and Dutra  
Noes: None  
Absent: None  
Abstain: None

**3. CEREMONIAL ITEMS**

**4. PUBLIC COMMUNICATIONS**

**4.1 Oral and Written Communications**

Lee Guio (Wat Buddhansorn Thai Buddhist Temple) invited the City Council to an event, the Thai Classic Night, at the Thai Buddhist Temple on Saturday, June 25, 2011. Sue Byrne, Katie Fox, Lisa Promes, Beth Howell, and Julie Vidad-Balmoja (Fremont Association of City Employees (FACE), SEIU Local 1021) presented several alternate proposals as options for consideration during the current labor negotiations.

**5. SCHEDULED ITEMS – None.**

### **5.1 Mayor Wasserman opened consideration of a Second Public Hearing (Published Notice, Hearing Continued from June 7, 2011) and Adoption of Fiscal Year 2011/12 Operating Budget and Appropriations Limit**

Mayor Wasserman continued the public hearing. There were no speakers. Mayor Wasserman closed the public hearing.

On a motion by Councilmember Natarajan, seconded by Councilmember Harrison, the City Council:

1. Held a public hearing on the operating budget and appropriations limit for FY 2011/12.
2. Adopted Resolution No. 2011-36 approving the City of Fremont Operating Budget for FY 2011/12.
3. Adopted Resolution No. 2011-35 creating an appropriations limit of \$508,665,119 for FY 2011/12.

Ayes:	Mayor Wasserman, Vice Mayor Chan, Councilmembers: Natarajan, Harrison and Dutra
Noes:	None
Absent:	None
Abstain:	None

### **5.2 Mayor Wasserman opened consideration of a Second Public Hearing and Consideration of Adoption of the FY 2011/2012 - 2015/2016 Capital Improvement Program (CIP)**

Mayor Wasserman continued the public hearing. There were no speakers. Mayor Wasserman closed the public hearing.

On a motion by Councilmember Natarajan, seconded by Councilmember Harrison, the City Council:

1. Held a public hearing on the five-year FY 2011/12 – 2015/16 Capital Improvement Program (CIP).
2. Adopted Resolution No. 2011-37 approving the FY 2011/12 – 2015/16 CIP, including the appropriation of the proposed funding amounts from the funding sources shown in the Fund Source and Use report for all five fiscal years, with appropriations for FY 2011/12 to be made effective July 1, 2011 and appropriations for FY 2012/13 to be made effective July 1, 2012.
3. Approved (reaffirmed) the long-term capital debt policy as included in the FY 2011/12 – 2015/16 CIP.
4. Authorized the City Manager to adjust the timing of appropriations approved by the City Council. (This allows accelerating or deferring the timing of these funds in response to changed conditions, but does not change the total appropriations for any project.)
5. Authorized the City Manager to transfer appropriations up to \$50,000 per project from the Capital Improvement Program Cost and Scope Contingency (PWC 8101) and the Emerging Project Reserve (PWC 7101) as necessary.

6. Approved appropriation transfers from the Measure WW Administrative Cost project (funded in the current CIP in 2011/12 under Fund 540, Park Facility Impact Fees) to cover staff costs on all the individual Measure WW funded projects, as needed, to cover the total staff costs on those projects.
7. Appropriated the donation received from the Indo-American Community Federation of \$25,000 to 502PWC8745, Central Park Picnic Area.

Ayes: Mayor Wasserman, Vice Mayor Chan,  
Councilmembers: Natarajan, Harrison and Dutra  
Noes: None  
Absent: None  
Abstain: None

**5.3 Mayor Wasserman opened consideration of a Public Hearing (Published Notice) to Consider a Third Party Appeal of a Planning Commission Decision to Approve an Amendment to a Conditional Use Permit (PLN2010-00106) to Allow Full-Body Massage Services at an Existing Day Spa Currently Offering Foot Massage Services Only (PLN2011-00177)**

Councilmember Dutra recused himself due to a conflict of interest related to a business relationship with the appellant as he is a tenant in one of his family's buildings and left the Council Chambers.

Mayor Wasserman opened the public hearing. Peter Chao (representing the appellant) and Yah Liang (appellant and owner of Warm Springs Spa) expressed their reasons for requesting approval of the appeal. Mr. Chao and Ms. Liang responded to questions from Councilmembers. Ivy Luo (representing Star's Day Spa) expressed opposition to the appeal. There were no other speakers. Mr. Chao and Ms. Liang provided rebuttal comments. Mayor Wasserman closed the public hearing. Staff responded to questions from Councilmembers. Councilmembers provided comment.

On a motion by Councilmember Harrison, seconded by Councilmember Natarajan, the City Council:

1. Held the public hearing;
2. Found that the project is categorically exempt from the California Environmental Quality Act (CEQA) pursuant to Guideline 15301, Leasing of Existing Facilities;
3. Found the project is in conformance with the relevant provisions contained in the City's existing General Plan. These provisions include the designations, goals, objectives, and policies set forth in the Land Use and Local Economy Chapters of the City's General Plan as enumerated within the staff report; and
4. Denied the appeal and upheld the approval of Conditional Use Permit Amendment PLN2011-00177 as shown in Exhibit "A" and described in Informational Item #1, based on the findings and as conditioned by the Planning Commission as shown in Exhibit "B".

Ayes: Mayor Wasserman, Vice Mayor Chan,  
Councilmembers: Natarajan and Harrison  
Noes: None  
Absent: Councilmember Dutra  
Abstain: None

Councilmember Dutra returned for the remainder of the meeting.

**5.4 Mayor Wasserman opened consideration of a Public Hearing (Published Notice) to Consider Planning Commission and Historical Architectural Review Board Recommendations on a City-Initiated Planned District (P-2011-232) to Provide Specific Development Considerations for a Future Commercial Mixed-Use Project on Two Lots (APNs 507-0828-005-00 and 507-0828-006-00) Comprising 4.07 Acres in the Niles Planning Area**

Project Planner Joel Pullen provided a summary of the project and reviewed existing Zoning Proposed Planned District Regulations and Design Guidelines. Staff responded to questions from Councilmembers. Mayor Wasserman opened the public hearing. Doug Avery (Niles Mai Street Association), Maria Gomes and Maria Roliz (Macau Cultural Center) expressed several concerns related to the proposed planned development proposal. There were no other speakers. Mayor Wasserman closed the public hearing. Another question and answer period followed. Councilmembers provided comment.

On a motion by Councilmember Dutra, seconded by Councilmember Harrison, the City Council:

1. Held public hearing.
2. Found that the project is categorically exempt from the California Environmental Quality Act (CEQA) under 15061(b)(3) of the CEQA Guidelines because the activity (Planned District) has no potential for causing a significant effect on the environment.
3. Found Planned District P-2011-232, as shown on Exhibits "A" & "B", is compatible with the Niles Historical Overlay District and is in conformance with the relevant provisions contained in the City's existing General Plan. These provisions include the policy set forth in the General Plan's Land Use Chapter as enumerated within the staff report. The project also conforms to the goals, objectives, and policies of the Niles Concept Plan.
4. Found the Planned District Rezoning Map, Regulations and Design Guidelines depicted in Exhibits "A" & "B" fulfill the applicable requirements set forth in the Fremont Municipal Code.
5. Introduced an ordinance rezoning the property from Community Commercial (Historical Overlay District) [C-C(HOD)] to Planned District P-2011-232 (Historical Overlay District) [P-2011-232(HOD)] as depicted on Exhibit "A" and adopted Planned District Regulations and Design Guidelines as shown on Exhibit "B" subject to the finding in Exhibit C.
6. Directed staff to prepare and the clerk to publish a summary of the ordinance.

Ayes: Mayor Wasserman, Vice Mayor Chan,  
Councilmembers: Natarajan, Harrison and Dutra  
Noes: None  
Absent: None  
Abstain: None

**\*5.5 Mayor Wasserman opened consideration of a Public Hearing (Published Notice) to Consider a Planning Commission Recommendation for a Major Amendment to Planned District P-2009-9 to Modify Conditions, Allow Minor Site Plan Changes, and to Reduce the Amount of Required on-site Parking for 301 Dwelling Units, an Approximately 17,000 Square Foot Civic Park, and Approximately 1,200 Square Feet of Office/Commercial Space; Naming of a Civic Park; Authorization to Execute Various Agreements**

(This item was added to the Consent Calendar)

On a motion by Councilmember Natarajan, seconded by Vice Mayor Chan, the City Council:

1. Held public hearing.
2. Found that consistent with CEQA Guideline 15162, no changes to the project or site circumstances have occurred, nor has new information of substantial importance been discovered, and the previous adopted Mitigated Negative Declaration and Mitigation Monitoring Plan are still valid and no further environmental analysis is required, and this action reflects the independent judgment of the City of Fremont.
3. Found that the Planned District Major Amendment (PLN2011-00190) to Planned District P-2009-9 is in conformance with the relevant provisions contained in the City's current General Plan. These provisions include the designation, goals, objectives and policies set forth in the General Plan's Land Use Chapter and enumerated with in the staff report.
4. Found that the proposed changes amending certain conditions of approval as shown in underline and strike out in Exhibit "1" and replacing Sheet A-1 with Sheet A-111 in Exhibit "E" (Site Plan only) of Planned District P-2009-9, fulfills the applicable requirements set forth in the Fremont Municipal Code.
5. Introduced an ordinance approving a Planned District Major Amendment (PLN2011-00190) to Planned District P-2009-9, as shown on Exhibit "1" findings and conditions of approval and Exhibit "E" (Site Plan only).
6. Approved "State Street Plaza" as the name of the Civic Park within the project.
7. Authorized the City Manager to execute the following agreements with the Developer:
  - a. Purchase and Sale Agreement for the vacated portion of California Street;
  - b. Civic Park Maintenance Agreement;
  - c. Aerial Easement and Maintenance Agreement for the Pedestrian Bridge;
  - d. Streetscape Maintenance Agreement;
  - e. Agreement regarding the Street Improvement Project design and excess project costs; and
  - f. Declaration of Covenant and Agreement regarding the civic park maintenance fund.
8. Directed staff to prepare and the clerk to publish a summary of the ordinance.

Ayes: Mayor Wasserman, Vice Mayor Chan,  
Councilmembers: Natarajan and Harrison  
Noes: None  
Absent: None  
Abstain: Councilmember Dutra due to a conflict of interest  
related to a business relationship as an affiliate of the  
owner of the Urban Housing Group in a project outside  
the City of Fremont.

## **6. REPORT FROM CITY ATTORNEY**

**6.1 Mayor Wasserman opened consideration of a Report Out from Closed Session of Any Final Action – None.**

## **7. OTHER BUSINESS – None.**

## **8. COUNCIL COMMUNICATIONS**

### **8.1 Council Referrals**

### **8.2 Oral Reports on Meetings and Events – None.**

**9. ADJOURNMENT:** There being no further business, Mayor Wasserman adjourned the meeting at 8:30 p.m.

Attest:

Approved:

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Dawn G. Abrahamson, City Clerk

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BOB WASSERMAN, Mayor